

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

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|---|-----------------------|
| JACK P. KATZ, on behalf of himself and all others similarly situated, |) |
| |) |
| |) |
| Plaintiff, |) |
| |) Case No. 08-CV-4035 |
| v. |) Judge Darrah |
| |) |
| ERNEST A. GERARDI, JR., et al., |) |
| |) |
| Defendants. |) |

**DEFENDANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO ANSWER
OR OTHERWISE PLEAD TO THE COMPLAINT**

DEFENDANTS, by and through their attorneys, Sonnenschein Nath and Rosenthal LLP, request that this Court grant Defendants an extension of time to Answer or Otherwise Plead to the Complaint to and including 30 days following this Court's decisions on the pending Motion to Transfer Venue and the Motion to Remand. Plaintiff does not oppose the requested extension. In support, Defendants state:

1. On May 9, 2008, Plaintiff Jack Katz filed this putative class action in the Circuit Court of Cook County, Illinois, County Department, Chancery Division, entitled *Jack P. Katz v. Ernest A. Gerardi, Jr., et al.*, No. 08 CH 17172 (Ill. Cir. Ct.) (the “*Katz* Action”).
2. On July 16, 2008, Defendants Archstone (formerly Archstone-Smith Operating Trust) (the “Archstone UPREIT”), Tishman Speyer Archstone-Smith Multifamily Series I Trust (successor by merger to Archstone-Smith Trust) (the “Archstone REIT”), Lehman Brothers Holdings Inc. (“Lehman”), and Tishman Speyer Development Corporation (“TSD”) (collectively, “Defendants”) filed in this Court their Notice of Removal of the *Katz* Action.
3. On July 23, 2008, the Archstone UPREIT, Archstone REIT, Lehman and TSD filed with this Court a Motion to Transfer Venue to the United States District Court for the

District of Colorado, pursuant to 28 U.S.C. § 1404(a). Plaintiff has filed his opposition, and the moving parties have replied. The Motion to Transfer is fully briefed and pending in this Court.

4. On July 23, 2008, Plaintiff filed a Motion to Remand seeking remand of the *Katz* Action to the Circuit Court of Cook County, Illinois. Defendants' Opposition is due August 25, 2008 and plaintiff's reply is due September 8, 2008.

5. The Motion to Transfer and Motion to Remand are potentially dispositive as to whether this Court will retain jurisdiction over the *Katz* Action.

6. Defendants' responsive pleading in the *Katz* Action is currently due September 8, 2008, pursuant to this Court's July 22, 2008 Order.

7. All Defendants respectfully request an extension of time to Answer or Otherwise Plead to and including 30 days following this Court's decisions on the Motion to Transfer Venue and the Motion to Remand. The requested extension of time will conserve the Court's and parties' resources, as the parties do not presently know whether the responsive pleading to the Complaint will be heard here, the U.S. District Court for the District of Colorado, or the Circuit Court of Cook County, Illinois. As such, the parties do not presently know which jurisdiction's law will govern the Defendants' responsive pleading, thereby causing hardship, expense and uncertainty to all parties if the Defendants' responsive pleading is required to be filed on September 8, 2008.

8. Plaintiffs' counsel, Christopher J. Stuart, does not oppose the proposed extension of time sought by Defendants.

9. This Motion is brought in good faith and not for delay.

WHEREFORE, Defendants respectfully request that this Court grant Defendants' Unopposed Motion for Extension of Time to Answer or Otherwise Plead.

Dated: August 15, 2008

Respectfully submitted,

By: /s/Jeffery S. Davis
One of the attorneys for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2008, I electronically filed the preceding, and notice of same, with the Clerk of the Court using the CM/ECF system which will send notification of such filings to the following and, in addition, served the following by U.S. Mail and email on August 15, 2008:

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